# UNITED STATES DISTRICT COURT FOR THE DISTRICT OF PUERTO RICO

JENNA DORSEY, KATHY JETTER

Plaintiffs

JURY DEMANDED

NEGLIGENCE

DAMAGES, TRIAL BY

CIVIL NO.:05-1094

 $\sqrt{s}$ 

COMPANIES, well As and their Insurance companies; UNIVERSAL companies PARTNERSHIP comprised thereof; and d/b/a CONJUGAL ACE . ∑ S S INSURANCE, HR PROPERTIES  $\times$ COURTYARD BY MARRIOTT, his wife INSURANCE any other Tortfeasors respective insurance INSURANCE, JOHN DOE, CHARLIE CAR RENTAL, ANDREWS, the HUGH ANDREWS, and C A,

Defendants

### AMENDED COMPLAINT

# TO THE HONORABLE COURT

undersigned Court Honorable and demand as follows: the through this before plaintiffs and respectfully state, allege the representation, NOM APPEAR legal

# JURISDICTIONAL BASIS AND VENUE

- pursuant (diversity is founded 1332 Sec. court this 28, jurisdiction of to U.S.C. Title jurisdiction) The Н
  - are alla have established because and the Seventy and Jetter and in Puerto Rico, υĘ New York, incorporated sum Kathy the and exceeds of S L of business residents, Dorsey state jurisdiction controversy of the Jenna place are plaintiffs defendants in Diversity principal residents amount  $^{\circ}$

- exclusive (\$75,000) Dollars and costs. Thousand interests
- OK Rico Ø 1391 since the events claim occurred in Puerto HO. District to this Sec. the er in U.S.C. giving rise to 28 U.S omissions Ś pursuant district Venue  $\sim$

#### THE PARTIES

- legal she Place, Flushing where ΟĘ person, York, 88<sup>th</sup> a natural of New 82-84 State at Ŋ. Jenna Dorsey domiciled York 11385. the of. resident L S Queen, New and Plaintiff lives V,
  - Ø lives Queen, Jetter is Jenna Dorsey's mother, she Flushing New York, where Place, 88 th of is domiciled at 82-84 State Plaintiff Kathy the York 11385. ΟĘ resident and ь. С
- corporations organized than ı, other business state place of Q Or are persons or Puerto Rico, principal Commonwealth of Defendants with their New York. with New A11 OL 0
- а -Ц О 40 and referred is a natural person who lives Defendant Hugh Andrews (hereinafter domiciled in Puerto Rico. Andrews) 7
- . By under spouse. married Andrew's are they conjugal partnership regime. Mr. ews is Mand belief L-S Andrews information Sandra  $\infty$ 
  - Hugh the legal entity constituted in solidarity between damages hereby claimed. respond comprised them, for which they partnership L.S the wife for his conjugal plaintiffs Andrews and between The <del>ر</del> 9
    - are are such JO which automobile Commonwealth action, and Companies, issue policies the <del>ر</del> companies that have issued οĘ present authorized Insurance the damages arising out lying rise to the presorganized or authorized Of laws U and accident giving rise the М under A, Puerto Rico. Defendants the insurance companies policies cover 10
- the Companies insured was driving given rise to hе the accident which has automobile Insurance and C the and/or Defendants A, B action. Andrews date of present Hugh  $\vdash$ 
  - and corporation rental Rico defendant Hugh Andrews Car Puerto ď offer S οf Rental 40 Commonwealth authorized t 0 Defendant Charlie Car automobile in the and an organized rented 12

- the 10 rise given has that accident action. present
- the insured On 40 automobile rise Companies given Insurance their has that or and/ Ζ accident Y and Rental action. Defendants X, the Car οĘ present  $\sim$
- t 0 the out of present to defendant authorized that JO arising company giving rise to the laws a policy Or the damages Insurance is an insurance the organized under issued issue such policies unde Commonwealth of Puerto Rico. company which cover automobile accident information and belief Ø . N Hugh Andrews and Universal action, the 14
  - Was Was moment present action by Marriot is Hugh Andrews belief the such company at and the defendant information Courtyard け president and by inf undergoing business for corporation in which d/p/a Properties HR JO 2
- βy grant present Marriot, company that issued οĘ Andrews Οf said insurance will the night the Courtyard by arising out Hugh to information and belief was working rise defendant policy to HR Properties d/b/a the accident giving rise to Insurance is an insurance damages giving such reason, which accident the in for ACE Insurance accident. For company automobile coverage action. the 16
  - are plaintiff's given to the additional or omissions discovered, or the real for the Tortfeasors are not direct causes for are and whose negligent actions substituted identities other names any Or hereby fictitious name will be and real identities fictitious names proximately and Defendants John Doe their parties whose damages. Once moment this ones the the are

### GENERAL ALLEGATIONS

- 12:30AM rented Verde Avenue けっ referred a vehicle approximately "the car") heading westbound down Isla (hereinafter was driving at Puerto Rico. 2004, Charlie's Car Rental Defendant Hugh Andrews 7 in Carolina, February 18
  - walking pedestrian Avenue plaintiff Jenna Dorsey Vázquez were pedestrians from South to North when they reached the Verde Isla O.F corner friend Vivian Vega time the Street. same walkway the Tartak 10

- the at 40 stopped signals vehicles approaching the intersection. friend made policeman her and Dorsey while 20
- (West side hand left the pedestrian's stopped. vehicle to East) 21
- and pedestrians signal of the policeman, plaintiff Dorsey to stop to walk using the walkway while the policeman made signal coming from East to West. continued friend the 22
  - policeman taking intersection, the both pedestrians, even defendant Hugh Andrews, who was driving heading East to West, did not stop at the signals and collided with both pedestria Or approaching the slowing down, Dorsey. plaintiff stopping, nodn precautions, and Of Vázquez Instead 23
    - bodily driven the car severe the impact of sustained Dorsey result of Andrews. Jenna ന Defendant injuries as Plaintiff bγ 24
- her motivated the police agents to Hospital UPR in Carolina t 0 tranma severe body that motivated the care. Ms. Jenna Dorsey sustained such receive emergency medical take her and immediately back, legs to to 25
- her bγ the and traumatic in the Emergency Room and due to treatment treatments even for the and continue specialists, tor mu... was treated to had condition Dorsey injuries while Ms. Jenna therapies present serious medical 26
- the the safety of them especially of the existence of the pedestrian's walkway and it's use by many people take precautions to yield to Andrews failed to very, knowledgeable regardless of the time of day. defendant and pedestrians and ensure necessary measure driver, . ე he when As 27
  - physiologic Dorsey spinal legs and other Jenna area, included lumbar arms, Ms. accident, that damage to net with foramen, muscles, injuries the body. suffered extreme result of parts ൯ 28
- a total disregard for safety for which and for act, driver of the car, iable to plaintiff intentional liable damages resulting therefrom. life and limb by the OL omission, demonstrates . ∪ negligent Andrews defendant ന Such o f 29
  - Andrews, the acts the of defendant for Dorsey Jenna insurer Ms. Universal Insurance as t0 directly respond 30

- ΨO owner the automobile which caused the accident. OĽ defendant the οĘ omissions
- the HR Propertie undergoing to Ms. ΟĘ ΟĘ respond directly omissions time he was as insurer of defendant the and at that acts company Courtyard by Marriot, given the the Andrews for for ACE Insurance Dorsey defendant accident. business Jenna 31
- defendant owner Jenna Dorsey or the the accident. C Insurance Co. as insurers of the defendant to Ms. automobile which caused directly ΟĘ omissions Andrews, respond acts and and the the οĘ 32
- and continue to suffer extreme anguishes daughter Dorsey, to the damages she suffered and underwent. Jenna her οf οĘ being mother the well Jetter, uncertainty for Kathy Plaintiff suffered due 33

#### THE AND HIS WIFE THEM BY CAUSE OF ACTION: VS. HUGH ANDREWS, COMPRISED CONJUGAL PARTNERSHIP FIRST

- through 33 contained reference рλ allegations of paragraphs 1 herein incorporated fully set forth. again 34
- skill, Jenna οf care to Ms. that knowledge, consistent with a duty of driving attention, and safety correasonable prudent person. Defendant Andrews owed reasonable οĘ Dorsey Ŋ  $\tilde{m}$ 
  - defendant reasonable safety, Ms. Of cause of skill, attention, and care severe damages. ΟĘ proximate nd proximate of his duty suffered and driving knowledge, breach direct Dorsey Andrews' Ø Jenna 36.
- Jenna rules Defendant Andrews owed a duty of care to Ms. traffic a11 with complyregulations. 40 Dorsey 37.
- with defendant damages to comply suffered by Ms. Jenna Dorsey. proximate cause of defer severe οĘ cause care regulations, of proximate his duty and regul οĘ and rules were Andrews' breach direct anguishes traffic ൻ all and  $\infty$  $\tilde{m}$
- with defendant anguishes comply Jetter. care to uncertainty were suffered by Ms. Kathy regulations, O.F of his duty and and rules breach direct traffic Andrews' Ø all 300
- injury Jenna to Ms. causes of care that or personal property. manner Andrews owed a duty ന to drive in to pedestrians Dorsey not Defendant 40
  - of defendant 40 not cause care O.F proximate duty of his and Andrew's breach direct 41

- severe pedestrians, Jenna Dorsey. to injury suffered by Ms. causes manner which damages were
- a duty of care to Ms. Jenna Dorsey to Car the between distance driving and pedestrians. safe Defendant owed maintain 42
- Defendant pedestrians, to maintain Jenna Dorsey. o.f proximate cause car and Andrews' breach of his duty of care safe distance between his car and were suffered by Ms. between and severe damages direct 43
  - けっ situations a duty of care to Ms. Jenna Dorsey driving dangerous potentially them. Defendant owed and avoid recognize 44
- avoid Jenna defendant recognize and Ms. 40 οĘ situations ρλ of care suffered cause As a direct and proximate Andrews' breach of his duty o potentially dangerous driving Were damages and severe them,  $\Omega$ 4
  - of care to Ms. Jenna Dorsey a duty owed Defendant Dorsey. 46.
- Defendant avoid severe striking her with the car he was driving. t C suffered care JO cause ΟĘ she his duty proximate Dorsey, Jenna breach of and Ms. direct striking Andrews' damages. α avoid As 47
- Kathy still as a direct and proximate cause of defendant avoid uncertainty daughter during the 40 mother, Ms. she care and treatment οĘ anguishes Dorsey, her duty her the his suffered extreme the well being of and throughout οĘ striking Ms. Jenna breach undergoing. Andrews' accident Jetter Also, for 48
- 10 exercise reasonable which injuries аţ allowed him drive Dorsey, the t 0 caused when he failed have Jenna けっ would pedestrian directed Andrews' failed speed which suffered by plaintiff prudence and hitting proximately reasonable and Defendant avoid care 9 4
- to exercise reasonable which avoid and prudence when he failed to maintain the caused the injuries Dorsey, thus and Jenna control pedestrian failed directly under Andrews' and driving with proximately Defendant collision plaintiff care 50
  - defendant skillfully, severe sustained car o f knowledgeably, the cause safely operate Dorsey proximate Jenna 10 and plaintiff failure and direct attentively, Andrews' driving, 51

- $\alpha$ her, affect still that damages other described below. and injuries
- omissions were question, and others actions disregard for life and property of in vehicle Andrews negligent the operating Defendant 52

#### ß COMPANIES, ф ď INSURANCE COMPANIES UNIVERSAL INSURANCE AND USAA INSURANCE INSURANCE 2 B × X, ACTION: VS. RENTAL, CAR SECOND CAUSE OF CHARLIE'S

- contained a S by reference 52 through <del>[ |</del> incorporated herein paragraphs set forth. ΟĘ allegations fully are again above  $\infty$
- and such οf insurance Commonwealth accident, covering to issue an automobile authorized policies S Hthe Insurance O.F issued of the company organized or laws Universal the company that have damages arising out under Puerto Rico. Defendant policies 54
- that arising an insurance company the damages covering accident. Defendant ACE Insurance is issued policies the automobile J O have out 2 2
- that arising companies such policies under companies covering the damages of the Commonwealth of Puerto Rico. are and insurance accident, authorized to issue are  $\mathcal{O}$ automobile policies and М Defendants A, issued organized or the laws οĘ have the out 56
  - insured driving rise he was has given Companies car Insurance the accident that the and/or ر ر Hugh Andrews action. Д date of A, present Defendants defendant on the the 57
- both 40 and Was the vehicle and for renting a vehicle s Rent prudence, responsible driving laws by Charlie' ത operated traffic Was ΟĘ рe severe damages. defendant Andrews principles a rental contract οf rental company should who violation an individual being the owner of general in viol causing that provided under t 0 and to regulations contrary The car vehicle safety Car. for The 28
  - the insured in car involved Companies the stance claim. Insurance Y and Z Insurance a Car and/or the accident related to Defendants X, Charlie's Rent  $\circ$ 5
- companies cies under arising companies such policies covering the damages the Commonwealth of Puerto Rico. and are insurance accident, to issue are authorized automobile 2 policies and Defendants X, issued organized or of the laws of have 60.

- the action. οĘ date present the rise to the On driving accident that has given Was Andrews Defendant 61
- action may 26 L.P.R.A. S 2003, an action against an insurer be brought separately or may be joined with an carrier Pursuant Puerto insurance its insured. direct οĘ the Commonwealth α liability or fault of action against its insured. 26 L.P.R.A Or casualty for the negligence ı. to brought ൻ Pursuant against 62
  - Andrews, respond directly to Plaintiffs Jenna Dorsey defendant Andrews and/or the owner of the automobile defendant omissions οf and insurers acts the മ വ caused the accident. for Insurance, Jetter Kathy Universal that and
- the that 40 the insurer of defendant HR Properties directly for omissions of defendant Andrews, given representing by Marriot, respond directions Dorsey and Kathy Jetter company at the time of the accident. and business Plaintiffs Jenna Dorsey undergoing a S Courtyard Insurance, acts and Was d/b/a ACE he 64
- and οĘ to Plaintiffs owner as insurers acts the the accident. and/or directly for companies, Kathy Jetter omissions of defendant Andrews automobile that caused the respond C Insurance Andrews, sey and F Dorsey defendant ଧ Jenna the Α, 65
- t 0 the the ΟĘ directly insurers defendant Andrews and/or the accident Jetter defendant Charlie Car Rental, respond g Kathy caused companies, Dorsey and automobile that Insurance omissions of Plaintiffs Jenna the Z and Ø οĘ owner acts 99
  - and care a reasonable avoid exercise reasonable proximately allowed him to Jenna Dorsey, proximinjuries of plaintiff and prudence when he failed to drive at would have Defendant Andrews failed to Jenna causing the that hitting pedestrian speed, measure directly 67
    - with care directly Defendant Andrews failed to exercise reasonable a collision to maintain and proximately injuries of plaintiff. avoid failed and thus pedestrian Jenna Dorsey, when he control prudence causing the under and 89
- hd proximate currers, knowledgeably, skillfully, attentivery, knowledgeably, skillfully, attentivery, damages, Andrews Defendant other and injuries direct and proximate described below. safely 69

#### DAMAGES

- back Jenna intervertebral legs and other parts of her body. her plaintiff negligence, t C damages discs, Andrews', the spinal physiologic οĘ defendant area, result suffered lumbar arms, ΟĘ direct omissions muscles, foramen, Dorsey 70
  - the and suffers provoke given rise to bulging that Dorsey other injuries myositosis, plaintiff Jenna has the accident that that lumbar lower back pain. and action, discs spasms, herniated present t t severe muscle
    - and her also X-Rays, plaintiff invaded evaluations but only pain a S diagnosed and treated, others that such clinical not and moral damages. treatment, dignity, causing electroencephalograms and Dorsey underwent рe embarrassment 40 order and exposure Jenna body 72.
- limited, Plaintiff Jenna Dorsey has seen impact in her normal pul. to push, pain. are or carry things to avoid suffering severe assistance still and requiring most of the time were as they activities, 73
  - for prolonged because these going up and discomfort. activities of sitting be limited, Or excruciating pain and or standing Plaintiff Jenna Dorsey's are to time stairs, Of periods down 74
- λq demands suffered pain and discomfort. still limitations Jenna Dorsey required and to overcome and pain physical therapy physical plaintiff provoke The phy 75
- the were has given rise to the present action. and unable after activities days she was disable 30 daily for Dorsey's normal activities impacted when informed Plaintiff Jenna accident that perform 76
- currently suffered and will continue she g to be monitored. Work er, given the condition still has to be monitored inability to Plaintiff Jenna Dorsey her teacher, + 0 and which due cluster suffer has 77
- p P οf thousand not being able to work can the extension forty is still to be determined. to but close calculated in an amount clos dollars (\$ 40,000) until now, οĘ economic impact damage The 78
  - аn was her Dorsey inability also has she impact in all her family members given that providing cluster teacher plaintiff's and supporting impact of a science individual economic work as 79

- old special years old with nine οĘ one years child. two brothers, eleven a Down Syndrome O.f. one her and another being
- suffers traumatic forthcoming daily and still her οĘ and prognosis suffered injuries and the way her life activities will be impacted. of the Dorsey Jenna the uncertainty Plaintiff 8
  - still accident ψO L'S the impact and which constituted sey suffered psychological of it. Dorsey the traumatic experience and the consequences Jenna from suffering Plaintiff 87
    - pain and suffering and moral which continue for Will Dorsey, caused and defendants should compensate her. Jenna anguishes, plaintiff has this situation severe to damages cause A11 82
      - рe One damages Thousand Dollars (\$1,500,000), οĘ can still in excess damages the total . S Dorsey such in an amount Of moment extension plaintiff Jenna amount hereby requested. calculated Million, Five Hundred this though the at suffered by determined, reasonably Even 83
- suffered and still suffers daughter' to the about due for her concerned being, uncertainty suffering and well always injuries. Jetter Ŋ N Kathy and and traumatic anguishes Plaintiff suffered, 84
  - рe damages of Five hereby t 0 can is still Hundred Thousand Dollars (\$500,000), amount in excess damages total of the Jetter such amount moment suffered by plaintiff Kathy the extension in an reasonably calculated this prognosis of her Even though the at determined, requested. 85

## TRIAL BY JURY DEMANDED

6. Plaintiffs demand a trial by jury.

### PRAYER FOR RELIEF

and judgment be entered an judgment Court (\$2,000,000), grants Honorable demand defendants, and Two Million dollars allowed that this respectfully damages defendants, requesting that jurisdiction over the cause and severally against punitive plaintiffs than for of no less WHEREFORE, award assures against jointly amount plus

and essary and just w, which incurred, reasonable attorney's fees, and incurred, this just by this Honorable Court, just and under the circumstances. proper considered and necessary relief as costs Court, deemed other Honorable well amount any a S

## RESPECTFULLY SUBMITTED

2005. December, 5<sup>th</sup>. day of In Caguas, Puerto Rico this

CM/ECF following SERVICE: On this date, this document Roberto the Court's and the Cadilla t0 notification with . H José electronically Fernández, send O F Will CERTIFICATE attorneys: Iván filed system which Abesada Agüet. been

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S/Carlos A. Mercado Rivera USDC-NO. 211904

COMP-JDORSI